

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA**

- (1) MISTY WHITE,
- (2) JERMAINE BRADFORD,
- (3) JANARA MUSGRAVE,
- (4) LANDON PROUDFIT,
- (5) BRADLEY BARBER, JR., and
- (6) DAKOTA KAPPUS,

On behalf of themselves and all others
similarly situated, and

- (7) OKLAHOMA STATE CONFERENCE,
NAACP,

Plaintiffs,

v.

Case No: CIV-19-1145-JD

- (1) HON. PAUL HESSE, in his official
capacity as presiding District Court Judge,
- (2) HON. JACK MCCURDY, in his official
capacity as District Court Judge,
- (3) HON. BARBARA HATFIELD,
- (4) HON. CHARLES GASS,
- (5) HON. KHRISTAN STRUBHAR, in their
official capacities as Special District Judges
in the Canadian County District Court, and
- (6) CANADIAN COUNTY DISTRICT
COURT, 26TH JUDICIAL DISTRICT,

Defendants.

JOINT STATUS REPORT

Pursuant to the Court's Order of August 4, 2021 [Doc. 52], the parties hereby submit their joint status report.

On August 23, 2021, the parties conducted a telephone conference to discuss this Court's Order and the case for approximately fifty (50) minutes. At the end of the

conference, the parties agreed to exchange certain documents and email communications and tentatively agreed to another conference call. Defendants' counsel produced documents regarding practices by the judges and Plaintiffs' counsel emailed an outline of proposed issues to discuss in the next telephone conference.

On September 1, 2021, the parties conducted a second telephone conference and discussed proper parties and procedural issues that might be cured through amendment. This conference lasted approximately an hour and ten minutes. Participating counsel in each of the conferences for Plaintiffs were: Marta Cook, Megan Lambert, and Trisha Trigilio. Participating counsel for Defendants were: Erin Moore, Devan Pederson and Stefanie Lawson. In addition, Laura Beth Cohen and Aaron Lewis appeared for Plaintiffs on August 23rd, and Blake Johnson appeared for Plaintiffs on September 1st.

Based on discussions held during the conferences, the parties stipulate that Judge Hesse is the Chief Judge of the 26th Judicial District, and that he issued administrative orders containing local criminal court rules governing initial appearances, initial arraignments, setting of bail, release of pretrial detainees, and appointment of counsel in his capacity as Chief Judge. The parties further stipulate that these administrative orders were an exercise of statutory authority granted by Rule 8 of the Rules on Administration of Courts, codified at 20 O.S. Ch. 1 App'x 2, which grants the Chief Judge "the power to adopt rules for the administration of the district courts of which he or she is in charge." The parties further stipulate that 22 O.S. § 1105.2 grants the Chief Judge, as the "presiding judge for the district," authority to "establish a pretrial bail schedule." Based on these stipulations, Plaintiffs agree to amend the complaint following a ruling on the motions to

dismiss to change the party name of Judge Hesse from: “HON. PAUL HESSE, in his official capacity as presiding District Court Judge,” to “HON. PAUL HESSE, in his official capacity as Chief Judge of the 26th Judicial District.” The parties were unable to reach an accord on other amendments to the complaint.

Plaintiffs maintain that the 26th Judicial District is the proper defendant for their Rehabilitation Act and Americans with Disabilities Act claims. For purposes of streamlining the motions to dismiss, Plaintiffs would agree to have relief under the Americans with Disabilities Act and the Rehabilitation Act run against a different entity or individual official who Defendants agree has the power to grant full district-wide relief to Plaintiffs, so long as this agreement is strictly technical in nature and does not have any substantive effect on the scope of relief available.

Defendants report that they discussed this issue with Plaintiffs’ counsel but Plaintiffs’ counsel’s proposal is not agreeable as it would require Defendants to agree to something that is not structurally possible. Plaintiffs’ counsel were advised of Defendants’ counsel’s position on how to properly name and plead a cause of action under these acts; however, the proper pleading issue does give rise to scope of relief issues which is why the above cannot be agreed upon by Defendants’ counsel.

Finally, if the Court still intends to hold a hearing on the motions to dismiss, Plaintiffs respectfully request guidance on the primary issues the Court intends to discuss.

Respectfully submitted,

/s/ Trisha Trigilio

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2021, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the ECF registrants registered to receive notices in this case.

/s/ Trisha Trigilio

Trisha Trigilio